



CIRCULAR

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY

NO.: 06-16-DPP	ORIGINATING AGENCY: DIVISION OF PURCHASE AND PROPERTY	PAGE 1 OF 9
EFFECTIVE DATE: 06/01/06	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 06-06-DPP (PC23I)
SUBJECT: DELEGATED PURCHASING AUTHORITY (DPA)		
ATTENTION: DIRECTORS OF ADMINISTRATION AND EXECUTIVE BRANCH PROCUREMENT OFFICERS		
FOR INFORMATION CONTACT: ASSISTANT DIRECTOR CONTRACT COMPLIANCE AND ADMINISTRATION UNIT		PHONE: (609) 292-2192 E-MAIL: CCAU@treas.state.nj.us

I. PURPOSE

Pursuant to N.J.S.A. 52:25-23, the Director, Division of Purchase and Property (DPP) may delegate certain purchases to State agencies. Delegated Purchasing Authority (DPA) procedures and guidelines have been revised. The purpose of this Circular Letter is to establish the policies and procedures for agencies to follow for procurements that do not exceed the DPA maximum.

This Circular Letter is to be used in conjunction with the other Treasury Circular Letters and policy directives referenced herein. This Circular Letter applies to all DPA purchases. The effective date of this Circular Letter is June 1, 2006.

II. POLICY - DPA REQUIREMENTS:

Effective July 1, 2005, the DPA threshold was increased from \$25,000 to \$29,000, with certain exceptions expressed in this Circular Letter. For the purpose of this Circular Letter, "state agency" or "agency" refers to the organization within a department as defined by the organizational code in the account number as delineated in the annual Appropriations Handbook. For departments or other units of government, (i.e. "in but not of" commissions, etc.) for which there is only one organizational code, or the organizational code does not accurately reflect the managerial span of control as it relates to procurement, an exemption to this definition of "state agency" or "agency" can be requested from the Director, DPP, to permit the administration of the purchase function at more than one level.

A DPA purchase is defined as a purchase transaction that cannot be procured through one of the following four primary contracting methods; i.e., a State contract, the State Distribution and Support Services Center (DSS), the Bureau of State Use Industries (DEPTCOR) or the Central non-profit agency CNA/ACCSES NJ (CNA) and that does not exceed the DPA threshold of \$29,000. Pursuant to N.J.S.A. 52:25-23(a), purchases or contracts exceeding the DPA threshold shall not be divided to circumvent the dollar limit imposed.

For items or services that are not covered by one of these primary contracting methods, an agency should anticipate what its purchase requirements are for the fiscal year. If the anticipated fiscal year volume for a qualifying item or service exceeds \$29,000, the agency should submit a PB-6 requisition or request the Purchase Bureau to perform the procurement. However, if the ANTICIPATED FISCAL YEAR VOLUME for a qualifying item or service is \$29,000 or less, the agency can properly utilize DPA for the purchase of that item or service.

III. VERIFICATION:

Prior to issuing purchase orders, it will be the agency's responsibility to verify the availability of funding for the purchase and to verify that the item or service is not available under a State contract or from DSS, DEPTCOR or CNA.

Agencies may not circumvent any one of the four primary contracting methods identified above. If there is a similar item or service under State contract or available from DSS, DEPTCOR or CNA that addresses the primary performance and/or functionality requirements of the desired item or service, DPA should not be utilized. Minor differences in functionality and/or performance between the desired item or service and a similar item or service under State contract or available from DSS, DEPTCOR or CNA are not valid reasons for purchasing such item or service via DPA.

IV. APPROVED PROCEDURES FOR DPA PURCHASES BY DOLLAR LEVEL

DPA limits are as follows:

- A. NO PRICE COMPETITION: No competitive bids are required for purchases of \$500 or less.
- B. TELEPHONE QUOTATIONS/INTERNET PRICING OR QUOTATIONS/E-MAILED QUOTATIONS/SIGNED TELEFAX QUOTATIONS: Telephone quotations (Form PB119 or an equivalent form with the same information contained on the PB-119), internet quotations, e-mail quotations or signed telefax quotations are required for all transactions as follows:

Over \$500 and up to \$17,500: Obtain three telephone quotations (using form PB119 or an equivalent document), or signed telefaxed, e-mailed or internet quotations for all transactions.
- C. AGENCY REQUEST FOR PROPOSAL (PB-120)-SOLICIT SEALED WRITTEN QUOTATIONS FROM VENDORS: For all procurements over \$17,500 and up to \$29,000, the agency or department shall solicit a minimum of four sealed written proposals per individual transaction (DPA-agency purchase order). Each agency is encouraged to place agency requests for proposals on their website to increase competition for needed goods and services.
- D. EMERGENCY DPA PROCUREMENTS-TELEPHONE QUOTATIONS/INTERNET PRICING OR QUOTATIONS/SIGNED TELEFAX BIDS OR E-MAILED QUOTATIONS: For all emergencies as defined in Section IX, Part D, EMERGENCIES, the agency or department may solicit bid proposals from a vendor employing the following procurement methods: telephone quotations, internet pricing or quotations, signed telefax bid responses or e-mailed quotations. A memorandum of the particular public exigency that precluded the solicitation of quotations from the required number of vendors must be prepared and signed by the Agency Approval Officer and made part of the DPA file.

V. RECORD RETENTION/AUDIT

Pursuant to N.J.S.A. 52:25-23(c), records of all purchases made shall be maintained by the agency and shall include proper documentation that the contract was competitively awarded, where required. The agency shall make available to the Director, DPP, upon request, all documents relating to the solicitation and award of the contract, including but not limited to, telephone and sealed written quotations, signed telefax quotations, e-mailed quotations, internet pricing or quotations, and purchase orders. Files must be made available for public inspection upon request (under the supervision of a responsible agency employee) and retained for a period of seven years. Files are also subject to audit by Treasury-OMB, the Office of Legislative Services and DPP's Contract Compliance and Administration Unit (CCAU). Agencies must maintain records showing that price competition was solicited from the required number of vendors for all DPAs exceeding \$500, except those verified and documented as either emergencies or sole source by the agency.

VI. VIOLATIONS

Should violations of this Circular be verified, pursuant to the authority of N.J.S.A. 52:25-23(c), the Director, DPP, may, by written order, rescind or reduce the level of purchasing authority delegated to the agency. In such event, the department's Executive Officer will be notified.

VII. PURCHASE BUREAU PROCESSING:

If an agency cannot execute a DPA procurement due to lack of expertise in the preparation of specifications for competitive proposals, the Purchase Bureau will accept a requisition (PB-6) and process the transaction.

VIII. ADDITIONAL DPA LIMITS AND EXCEPTIONS

- A. **MOVING SERVICES:** Moving services performed within leased or State-owned facilities not exceeding \$7,500 in total cost per occurrence may be purchased via DPA. For all purchases, the Government Leasing Support Unit within the Division of Property Management and Construction (DPMC) must be notified and a copy of the DPA-agency purchase order forwarded to DPMC. However, moving services exceeding \$7,500 must be submitted to the Purchase Bureau on a requisition (PB-6) with prior written approval from DPMC.
- B. **PROFESSIONAL AND CONSULTING SERVICES:** These services may be procured via DPA; however, direct purchase orders cannot be divided into smaller purchase orders to circumvent DPA limits. If the cost of these services exceeds the current DPA limit, consult Circular Letter No. 98-14-OMB/DPP/OIT, as amended or re-designated, for Professional and Consulting Services for procedural guidelines and approval requirements.
- C. **INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS EQUIPMENT and SERVICES:** Information technology (IT) and telecommunications equipment and services not covered by State contract may be purchased by DPA as provided in this Circular Letter. However, system purchases which individually total less than \$25,000 but in the aggregate total more than \$25,000 cannot be purchased by DPA. All IT procurements must conform to approved Departmental IT Strategic Plans, regardless of dollar amount. All IT purchases whose total dollar value exceeds \$2,500 must be approved by the Office of Information Technology (OIT) in accordance with Circular Letter No. 06-15 DPPOIT "Procurement of Information Technology (IT) Hardware, Software and Related Services" as amended or re-designated. Also reference Circular Letter No. 84-13-GSA for Telecommunications Services and Equipment Acquisition as amended or re-designated for procedural guidelines and approval requirements and in accordance with appropriation language requirements.

- D. **CELLULAR PHONE PURCHASES:** Cellular phone acquisitions or purchases are to be made from existing State contracts. All cell phone acquisitions are also governed by the provisions of Circular Letter No. 04-06-OIT, as amended or re-designated.
- E. **PARKING SPACE RENTALS:** Parking space rentals may be purchased up to \$2,500 per vendor, per fiscal year. Purchases exceeding \$2,500 per vendor per fiscal year must receive prior written approval from the Purchase Bureau and the State Parking Coordinator and, if approved, must be submitted on a requisition (PB-6).
- F. **RENTAL OF SPACE:** Office space rentals, with the approval of DPMC, may be purchased for a period up to twelve consecutive months. However, the total fiscal year purchases cannot exceed \$29,000.

SEASONAL RENTALS: Seasonal rentals may be acquired with approval by DPMC if the cost does not exceed \$10,000. Examples are boat slip rentals, race track rentals for the Sire Stakes, and temporary warehouse/storage space needs. Requests for approval for seasonal rentals exceeding the \$10,000 limit must be submitted and approved in writing in advance by DPMC.

- G. **RENTALS OF EQUIPMENT:** Equipment rentals are permitted with the exception of photocopiers and vehicles.
- H. **PHOTOCOPIERS:** All photocopying purchases or leases are excluded from the provisions of this Circular Letter.
- I. **VEHICLE PURCHASES:** All vehicle purchases are excluded from the provisions of this Circular Letter.
- J. **STEEL SHELVING:** All steel shelving purchases are excluded from the provisions of this Circular Letter. Refer to Circular Letter No. 90-10-GSA for Steel Shelving Review and Procurement Procedures for guidelines and procedures.
- K. **PRINTING - NON-CONTRACT:** Agencies are permitted to develop specifications and purchase non-State contract printing via DPA as follows:

From zero to \$500: No price competition.

Over \$500 to \$10,000: Three telephone quotations (using form PB119 or an equivalent document), or signed telefaxed, e-mailed or internet quotations are required for all transactions.

Over \$10,000 to \$17,500: Four telephone quotations (using form PB119 or an equivalent document), or signed telefaxed, e-mailed or internet quotations are required for all transactions.

Over \$17,500 to \$29,000: Agencies will complete the DPA procurement process by utilizing standard DPA procedures for obtaining sealed bids from a minimum of five vendors. (See Sections IX and X.) Each agency is encouraged to place agency requests for proposals on their website to increase competition for needed goods and services. A requisition (PB-6) with supporting documentation must be submitted to the Purchase Bureau, either to the attention of the Manager for General Services or the Team Leader for Printing Services. The Printing Services Team will initiate the issuance of the purchase order. The procurement request(s) will also be reviewed to ascertain the eligibility of the item(s) or project(s) for placement on the STATE PRINTING CALENDAR, the schedule of printing jobs to be bid.

Over \$29,000: Agencies are required to consult with the Purchase Bureau Printing Team to ascertain the eligibility of item(s) or project(s) for placement on the STATE PRINTING CALENDAR as a contract item. If deemed ineligible, a requisition (PB-6) will be required.

If specification assistance or a list of potential bidders is required, agencies should contact the Purchase Bureau Printing Team at (609) 292-2134.

- L. FURNITURE/CARPET: All furniture and carpet procurements exceeding \$20,000 must be submitted to the Purchase Bureau on a requisition (PB-6) with prior written approval from DPMC. Refer to Circular Letter No. 92-09-GSA for Procedures for the Acquisition of Furniture and Carpet.

IX. GENERAL PROCUREMENT POLICIES AND PROCEDURES

- A. DPA-AGENCY PURCHASE ORDERS: Agencies cannot divide any direct purchase into smaller orders to circumvent DPA limits.

If the items required are stocked at the DSS or are available through DEPTCOR or CNA, neither DPA nor State term contracts may be utilized to procure those items.

- B. DPA FORMS: Summary of Telephone Quotations (Form PB-119) and Agency Request for Proposal (Form PB-120) are available from DSS or from the internet on the Division of Purchase and Property website.
- C. DOCUMENTATION: Documentation of telephone quotations (Form PB-119 or an equivalent document), e-mailed quotations, internet pricing, sealed written or signed telefax quotations is required. Agencies must maintain records showing that price competition was obtained from the required number of vendors for all DPAs exceeding \$500, except as otherwise provided in this Circular Letter.
- D. EMERGENCIES: In cases of life, safety and health emergencies, when the public exigency requires the immediate delivery of the item or service and time does not permit competitive prices to be obtained from the required number of vendors, a single quotation is permitted. A memorandum of the particular public exigency that precluded the solicitation of quotations from the required number of vendors must be prepared and signed by the Agency Approval Officer and made part of the DPA file.
- E. SOLE SOURCE VENDORS: If only one source can provide the item or service, a memorandum of sole source justification must be written and signed by the Agency Approval Officer. Examples of bona fide sole source procurements are organizational or association memberships, proprietary books and other publications. The determination is relatively simple: a demonstrable need which can be satisfied by only one source.
- F. BRAND NAMES: Any reference to a brand name must be followed by the language "or approved equal" whenever telephone, sealed written, signed telefax, internet pricing or e-mailed quotations are sought. The agency shall provide relevant and appropriate specifications to all bidders to allow them to submit competitive proposals. It is essential that all bidders be given the same information to maintain a uniform competitive environment.

- G. TIE BIDS: Should identical pricing be offered by two or more responsive vendors and the quality of the item or service offered is identical, the agency shall, with full documentation of its actions, apply the following factors, listed in order of priority, in determining the vendor to which the award will be made:
1. History of vendor performance, as evidenced by the formal complaints on record at the Purchase Bureau, or a record of outstanding performance;
 2. Usable cash-or volume-based discount that renders one bid more favorably priced;
 3. Delivery advantage - considering time, distance, convenience and vendor facilities;
 4. Active registration with New Jersey Commerce and Economic Growth Commission as a small business at the time of bid opening, and:
 5. In-State location.
- H. AGENCY/BIDDER DISPUTE: In the event of a protest or dispute between an agency and a bidder regarding a DPA contract award, the bidder shall be provided due process via review by the agency Director of Administration or Fiscal Officer. If the matter cannot be resolved by the agency, the Director, DPP, will conduct a review and make a determination in accordance with N.J.A.C. 17:12-3.

X. PROCEDURES - DPA-AGENCY PURCHASE ORDER

- A. \$500 or LESS: A DPA-agency purchase order can be issued without price competition for a purchase less than or equal to \$500.
- B. Over \$500 to \$17,500: Obtain three telephone quotations, internet quotations, e-mailed quotations or signed telefaxed quotations for all purchases over \$500 and up to \$17,500.
1. Record telephone quotations on Form PB-119 or on an equivalent document and include the completed PB-119 Form in the agency DPA file along with a copy of the DPA-agency purchase order.
 2. For all telephone solicitations, it is the responsibility of the agency to ensure that competition is conducted in a fair and even manner. All vendors shall be provided with the same terms and conditions, including the same information on the proposed service or good needed, to submit quotes.
 3. Internet pricing should, whenever possible, utilize a pricing comparison engine that lists item costs by vendor in ascending order. If the agency does not utilize Form PB-119 to record internet pricing, then all the information required on the PB-119 must also be detailed on the received quotation. In addition, for internet pricing or quotations, the agency must print out and retain in its file the quote or pricing obtained from each vendor site solicited. The agency procurement officer shall also note on the printed quote the time and date such pricing was obtained and shall sign off on the printed quote to verify the date and time.
 4. For services, including consultant services, the agency must secure written verification from the selected vendor, prior to the start of the contract, as to total cost, the deliverable(s) and timeframe(s) for the delivery of the deliverable(s). Such verification must be included in the agency's DPA file.

- C. Over \$17,500 to \$29,000: Solicit a minimum of four sealed written bids for purchases greater than \$17,500 but less than \$29,000 using Form PB-120, "Agency Request for Proposal." Obtain, process and file sealed written bids as follows:
1. Forward "Agency Request for Proposal" simultaneously to a minimum of four vendors. Allow sufficient time from the forwarding date of the Agency Request for Proposal to the vendors for the review, completion and return of proposals by the vendors. The return date and hour should be clearly shown in the Agency Request for Proposal. No sealed written bids can be accepted if received by the agency after the return date and hour noted on the Agency Request for Proposal.
 2. Enclose a return envelope with the Agency Request for Proposal sent to each vendor. Type proposal due date (month, day, and year) and your agency reference number on the face of the envelope in the upper left-hand corner, below the agency return address.
 3. For emergency procurements under Section IX, Part D, EMERGENCIES, telephone quotations, internet pricing or quotations, signed telefax bids or e-mailed bids may be accepted in place of sealed written bids. The signed telefax bid or e-mailed bid should include the agency reference number. Bidders should be advised that signed telefax bids must include the back page of the Form PB-120, i.e., the State of New Jersey Terms and Conditions, and that all pages of the signed telefax bid, including the back page of Form PB-120, must be signed by the bidder.
 4. It is the responsibility of the agency to establish internal control procedures for the acceptance, security, review and evaluation of sealed written bids, and also for signed telefaxed bids, e-mailed bids or internet pricing when such procurements are permitted under this Circular Letter. Such procedures must include time stamping of the exterior of sealed written bids and the first page of signed telefax bids upon receipt; keeping of all sealed written bids and signed telefaxed bids in a secure location; no review of any sealed written bid or signed telefax until the time specified for submittal has passed; and no acceptance of a sealed written bid or signed telefax bid after the time specified for submittal has passed. For e-mailed bids, the agency shall immediately print a copy of the received e-mail bid which will include the date and time of receipt.
 5. Sealed bids should be opened and reviewed at the time specified in the Agency Request for Proposal for submission of sealed bids.
 6. All unsigned bids shall be rejected, whether by sealed written or signed telefax quotation.
 7. Agencies shall not alter sealed written bids, signed telefax bids or e-mailed bids.
- D. PROVISIONS AND REQUIREMENTS GOVERNING ALL DPA PROCUREMENTS BETWEEN \$500 AND \$29,000.
1. One Response to a Solicitation: A single response to a DPA solicitation for a purchase of greater than \$500 but less than \$29,000 does not preclude the issuance of a purchase order to the single respondent. A DPA agency purchase order may be issued to a single respondent, provided the agency has contacted the appropriate number of bona fide vendors as previously outlined and the bid received from the single respondent is responsive, i.e., fully complies with the agency's specifications and the State of New Jersey Terms and Conditions, as shown on the reverse side of Form PB-120. The Agency Approval Officer must prepare a memorandum to the DPA file to this effect.

2. **Bid Evaluation:** Generally, the bidder with the lowest price is entitled to the award, provided the lowest bidder's proposal fully conforms to the terms and conditions of the agency's specifications and the State of New Jersey Terms and Conditions, as shown on the reverse side of Form PB 120. Should the lowest bid fail to fully conform, the bid shall be deemed "nonresponsive" and shall be ineligible for award. Award can be made only to a "responsive" bidder, i.e., a bidder whose bid fully complies with the terms and the conditions of the agency's specifications and the State of New Jersey Terms and Conditions. However, an agency can "bypass" the lowest responsive bidder in favor of a higher priced responsive bidder, if the agency determines that the higher priced responsive bidder's proposal better serves the State's interest. If the agency makes an award to a vendor other than the low cost responsive bidder, the agency must document with substantive justification the selection of the selected vendor. In the event of either a finding that a bidder's bid is nonresponsive or a bypass, the Agency Approval Office must notify the nonresponsive bidder and/or any bypassed bidder in writing of the reason for the nonresponsive determination or bypass determination.
3. **Required Forms for All DPA Procurements:** Prior to finalization of any award to a vendor, the vendor must complete an Ownership Disclosure Form, Affirmative Action Employee Information Report, MacBride Principles Certification, and provide a Business Registration Certificate or provide evidence that such forms have already been completed by the vendor within one year of the procurement date and are on file with the State. The only acceptable evidence that the forms are on file with the State is that the vendor holds an active State contract. The agency shall document the existence of an active State contract in the DPA contract file. Verification of Affirmative Action compliance may also be obtained through the VINP screen on the MACSE system. All contractors must execute and date the Standard Terms and Conditions for DPA (PB-120).
4. **Pay to Play Disclosure Certification:** In addition, for all procurements exceeding \$17,500, whether singly or in the aggregate, the vendor must comply with N.J.S.A. 19:44A-20.13 et seq. (formerly known as Executive Order (EO) 134). If this provision is applicable to the procurement, the agency shall not issue a Purchase Order to the vendor until the EO 134 Review Unit of DPP apprises the agency that the vendor is in compliance with N.J.S.A. 19:44A-20.13 et seq.
5. **Source Disclosure Certification:** For all procurements that are "primarily" for services, the vendors must comply with N.J.S.A 52:34-13.2 (also known as EO 129) and file a source disclosure certification with the agency. It is the agency's responsibility to determine if the vendor complies with N.J.S.A. 52:34-13.2.
6. **Forms:** All forms, except Business Registration Certificates, are available on the Purchase Bureau website, under "Doing Business – Forms" or on the Department of the Treasury website under "Forms." The agency must review all completed forms for completeness and acceptability. Questions relating to the acceptability of completed forms can be directed to the DPA contact identified within this Circular Letter. All original forms, with the exception of the Affirmative Action Employee Information Report, shall be made part of the agency's DPA file for the particular procurement. The agency shall forward the original of the completed Affirmative Action Employee Information Report to the Department of the Treasury, Division of Contract Compliance and Equal Employment Opportunity in Public Contracting, PO Box 209, 240 West State Street, Trenton, New Jersey, 08625. A copy of the completed Affirmative Action Employee Information Report shall be made part of the agency's DPA file for the particular procurement.

7. Agency DPA File: Along with all required forms, the agency must include all sealed written bids, signed telefaxed bids, e-mailed quotations or internet pricing in the agency DPA File.

XI. PAYMENT FOR DPA

It is the responsibility of the using agency to assure that all goods and services received by the agency from the vendor conform to the requirements of the bid specification. The using agency shall not pay for goods and services that are not delivered by the vendor or fail to conform to the requirements of the bid specifications.

XII. TRAINING

At the request of the agency, training will be made available by contacting the Assistant Director of the Contract Compliance and Administration Unit at (609) 292-5400 or by fax at (609) 777-2968. Requests or questions can also be made through e-mail at CCAU@treas.state.nj.us. The type of training topics include, but are not limited to the following:

- Review of DPA procedures
- Review/process of Request for Waiver of Advertisement
- How to utilize a State contract
- Research and developing a DPA bidder list for a commodity

XIII. ACCESS TO STATE CONTRACTS

All current public advertised State Contracts can be accessed through the website for the Division of Purchase and Property. The website address is <http://www.state.nj.us/treasury/purchase/>.

John V. Naiman
Director